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megan@trellislaw.com  
jack@trellislaw.com  
docket@trellislaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* SUKENDEEP SAMRA, MARK A. VAN DEN BERGEN,  
STEVEN HALL, JASON PETERSON, and STEPHEN DYSON

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Appeal 2009-004778  
Application 10/807,474  
Technology Center 2400

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Before JOSEPH F. RUGGIERO, MAHSHID D. SAADAT, and CARLA M.  
KRIVAK, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1-8 and 14-22, which are all of the pending claims. Claims 9-13 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Appeal Brief (filed Oct. 16, 2007), the Answer (mailed January 14, 2008), and the Reply Brief (filed March 12, 2008) for the respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived (*see* 37 C.F.R. § 41.37(c)(1)(vii) (2008)).

### *Appellants' Invention*

Appellants' invention relates to a user interface for annotating different items in a media production system. Parts of the production, such as frames, that have an associated annotation are provided with a visual annotation marker that shows a visual relationship of the annotation information to the frame. (*See generally* Spec. ¶¶ [0013] and [0032]-[0034]).

Claim 1 is illustrative of the invention and reads as follows:

1. A method for annotating an item in a user interface of a media production system, the method comprising

accepting signals from a user input device to select a frame in a plurality of frames of a production being processed by the media production system;

creating annotation information and an annotation marker; and

storing the annotation information in association with the selected frame of the production, wherein the annotation marker is displayed with the frame when the frame is displayed during playback of the plurality of frames in the production, the annotation marker showing a visual relationship of the annotation information's relevance to the frame.

*The Examiner's Rejections*

The Examiner relies on the following prior art references to show unpatentability:

Matsuzawa	US 6,085,185	Jul. 4, 2000
Dahlin	US 2004/0078215 A1	Apr. 22, 2004

Claims 1-3, 6-8, and 14-22 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Matsuzawa.

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Matsuzawa in view of Dahlin.

Claim 18 stands rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the invention.

## ISSUES

Based on Appellants' contentions, as well as the findings and conclusions of the Examiner, the pivotal issues before us are whether the Examiner erred in finding that Matsuzawa discloses that

- a) an annotation marker is displayed *with* a selected frame during playback of a plurality of frames of a media production, and
- b) the displayed annotation marker shows a visual relationship of the relevance of the annotation information to a selected frame.

## ANALYSIS

### 35 U.S.C. § 102(e) REJECTION

#### *Claims 1-3, 6-8, 14-18, and 22*

Appellants' arguments focus on the contention that, in contrast to the invention set forth in independent claim 1, Matsuzawa does not disclose that an annotation marker is displayed with a selected frame during playback of a plurality of frames of a media production. According to Appellants (App. Br. 9-10; Reply Br. 4-5), Matsuzawa merely discloses the display of a table (Annotation Object Management Table 70) which summarizes the annotations which have been created and the range of frames to which the annotations are related. (Matsuzawa, Figs. 4-6). In Appellants' view, this table enables the quick retrieval of a range of frames for playback, but there is no indication that the annotation marker table is displayed with the frames during playback of a production as claimed.

We agree with Appellants. While the Examiner directs attention (Ans. 4 and 9) to the portion of Matsuzawa at column 7, lines 18-24, which suggests that the media object management table 50 is displayed on display

device 40 when a media production is played, the media object management table 50 has no annotation markers associated with it. Rather, Matsuzawa discloses that the media object management table 50 is merely a list of stored media objects which the user can select for viewing to begin the annotation process. (Matsuzawa, Fig. 2, col. 7, ll. 11-24).

The annotation creation process is described by Matsuzawa beginning at column 7, line 25 and involves the playback of the selected media object from media object management table 50. During playback, the user can mark the beginning and end of the range of frames for which a desired annotation is to be created using an annotation information creation screen along with an indication of the type of annotation information, e.g., keyword, thumbnail image, etc. (Matsuzawa, Figs. 9 and 10, col. 7, l. 25-col. 8, l. 35). Once completed, the annotation information as related to selected frames of a selected media production is displayed enabling easy retrieval of the range of frames for playback (Matsuzawa, Figs. 4 and 10, col. 8, ll. 21-35, and col. 10, ll. 22-37). As argued by Appellants, however, there is no indication in the cited portions of Matsuzawa, or elsewhere in the document, that suggests that the annotation information is displayed with the frames during playback of a media production.

In view of the above discussion, since we find that the Examiner erred in determining that all of the claim limitations are present in the disclosure of Matsuzawa, we do not sustain the Examiner's 35 U.S.C. § 102(e) rejection of appealed independent claim 1, nor of claims 2, 3, 6-8, and 14-18 dependent thereon. The rejection of claim 22, which is dependent on independent claim 19 but which includes the feature of the annotation marker displayed with the selected frame, is also not sustained.

*Claims 19-22*

We sustain the Examiner's 35 U.S.C. § 102(e) rejection of independent claim 19 and its dependent claims 20-22 which have not been separately argued. While Appellants have argued independent claims 1 and 19 together (App. Br. 8-11; Reply Br. 4-6), it is noteworthy that independent claim 19 has no limitation directed to the displaying of an annotation marker *with* a selected frame, a feature we found missing from the disclosure of Matsuzawa. Rather, the displaying step of claim 19 requires the displaying of the selected frame *and* the annotation marker, but with no requirement that the frame and the annotation marker are displayed concurrently. With our previous discussion of Matsuzawa in mind, we find that Matsuzawa discloses the display of selected frames, e.g., the playback display of the selected range of frames for which annotation information has been created, as well as the display of annotation marker information, e.g., the annotation object management table 70, as claimed. (Matsuzawa, Fig. 4; col. 6, ll. 11-24).

We recognize that Appellants' arguments (App. Br. 10; Reply Br. 5) attacking the Examiner's reliance on Matsuzawa have also directed attention to the language of independent claim 19 which requires that the displayed annotation marker show a visual relationship of the relevance of the annotation information to the selected frame. In describing this feature at paragraphs 31-34 of the Specification, Appellants indicate, for example, that the display of an annotation marker in the form of circular dot with a forward arrow, such as dot 142 illustrated in Figure 1 of Appellants' drawings, shows that the annotation marker has relevance to frame 142 as well as to succeeding frames of the video clip 104. With this description in

mind, we fail to see why Matsuzawa's Figure 4 display of the annotation object management table 70, which describes the relationship of the annotation markers 705 to displayed frames by indicating the beginning and end values of the selected frames to which it applies, would not be considered to include a showing of a visual relationship as claimed.

### 35 U.S.C. § 103(a) REJECTION

We do not sustain the Examiner's obviousness rejection of dependent claims 4 and 5. The Examiner has applied the "freeform" annotation creation teachings of Dahlin to Matsuzawa to address the drawing capture and audio annotation information features of these claims. We find nothing, however, in the disclosure of Dahlin which overcomes the deficiencies of Matsuzawa in disclosing the display of annotation markers with the display of selected frames as required by independent claim 1.

### 35 U.S.C. § 112 REJECTION

The Examiner's 35 U.S.C. § 112, second paragraph, rejection of dependent claim 18 is sustained. Appellants' arguments (App. Br. 9) do not contest the Examiner's position that the language "the action" in line 1 of claim 18 lacks antecedent basis.<sup>2</sup>

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<sup>2</sup> Appellants indicate (App. Br. 6) that they filed an amendment with the Appeal Brief to correct the indefiniteness, but the amendment was denied entry by the Examiner. In view of our decision in this appeal, it is suggested that the Examiner reconsider the denial of the entry of the amendment.



### CONCLUSION

Based on the analysis above, we conclude that, with respect to the 35 U.S.C. § 102(e) rejection, the Examiner erred in rejecting claims 1-3, 6-8, and 14-18, but did not err in rejecting claims 19-22. We also conclude that the Examiner erred in rejecting claims 4 and 5 for obviousness under 35 U.S.C. § 103(a), but did not err in rejecting claim 18 for indefiniteness under the second paragraph of 35 U.S.C. § 112.

### DECISION

The Examiner's decision rejecting claims 1-3, 6-8, and 14-22 under 35 U.S.C. § 102(e), claims 4 and 5 under 35 U.S.C. § 103(a), and claim 18 under 35 U.S.C. § 112, second paragraph is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

### AFFIRMED-IN-PART

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Trellis Intellectual Property Law Group, PC  
1900 EMBARCADERO ROAD  
SUITE 109  
PALO ALTO, CA 94303